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VIA OVERNIGHT DELIVERY

October 13, 2010

Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 9300 East Hampton Drive Capitol Heights, MD 20743

Re:

ReCellular, Inc. (MCA Wireless) - Petition for Forbearance

WC Docket No. 09-197

Dear Ms. Dortch:

Please find enclosed one (1) original and four (4) copies of ReCellular, Inc. (MCA Wireless)'s Petition for Forbearance, plus an additional copy of this cover letter and the Petition's first page. Please date and/or time stamp "Received" on these additional copies and return them to me in the enclosed pre-paid, self-addressed envelope.

Should you have any questions or concerns in relation to this material, please do not hesitate to contact me.

Thank you for your assistance in this matter.

M. Catherine Wilcox

Regards,

DYKEMA GOSSETT PLLC

M. Catherine Wilcox

Enclosures

cc:

Brad Decker

Andy Hood Gary Gordon

California | Illinois | Michigan | Texas | Washington D.C.

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# BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C. 20554

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In the Matter of	)	WC Docket No. 09-197
Federal-State Joint Board on Universal Service	)	
Petition for Forbearance of ReCellular, Inc.	)	
(MCA Wireless) Under 47 U.S.C. § 160(c)	)	•

# PETITION FOR FORBEARANCE OF RECELLULAR, INC. ("MCA WIRELESS")

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October 13, 2010

DYKEMA GOSSETT A PROFESSIONAL LIMITED LIABILITY ("OMPANY" CAPITOL VIEW 201 TOWNSEND STREET SUITE 910-LANSING, MICHIGAN 48933

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#### **SUMMARY**

ReCellular, Inc. (operating under the brand name "MCA Wireless"), a wireless resale provider, is seeking forbearance from the requirement under Section 214(e)(1)(A) of the Communications Act of 1934, as amended (the "Act"), and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules that carriers designated as eligible telecommunications carriers ("ETC") for the purposes of federal universal service support provide services, at least in part, over their own facilities. MCA Wireless requests forbearance throughout the United States from the requirement under Section 214(e)(1)(A) of the Act and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules for the purpose of designating MCA Wireless as an ETC solely to provide Lifeline-supported services.

Section 10(a) of the Act empowers the Federal Communications Commission (the "FCC" or "Commission") to forbear from enforcing any regulation or provision to a telecommunications carrier or service, such as enforcement of the facilities requirement, if the Commission determines that three conditions are met.<sup>1</sup> First, the Act requires that MCA Wireless's rates be just, reasonable, and non-discriminatory.<sup>2</sup> MCA Wireless will face widespread competition, which ensures that MCA Wireless will offer consumers high-quality services at competitive rates that are just, reasonable, and non-discriminatory.

Second, the Act requires that enforcement of the provision not be necessary to protect consumers.<sup>3</sup> Enforcement of the facilities requirement is not needed to protect consumers. Rather, forbearance from the facilities requirement will benefit consumers because more options

<sup>&</sup>lt;sup>1</sup> 47 U.S.C. § 160(a).

<sup>&</sup>lt;sup>2</sup> 47 U.S.C. § 160(a)(1).

<sup>&</sup>lt;sup>3</sup> 47 U.S.C. § 160(a)(2).

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for affordable wireless telecommunications services will be available. This will advance the Commission's goal of providing low-income consumers with greater access to affordable telecommunications services.<sup>4</sup> Granting forbearance to MCA Wireless will not unduly burden USF or otherwise reduce funding available to other ETCs because MCA Wireless is seeking forbearance for the sole purpose of designation as a Lifeline ETC.

Third, the Act requires forbearance be consistent with the public interest.<sup>5</sup> Forbearance is in the public interest because MCA Wireless will be permitted to provide discounted telecommunications services to qualifying low-income consumers, who are the intended beneficiaries of the Lifeline program.<sup>6</sup> Many low-income consumers have difficulty obtaining access to telecommunications services because they are unable to pay high usage fees or enter into a long-term contract. Thus, granting forbearance to MCA Wireless will enable them to expand the availability of affordable telecommunications services to customers who otherwise cannot afford telecommunications service.

Finally, MCA Wireless's request for forbearance is consistent with recent Commission precedent in which the Commission granted forbearance from the facilities requirement to TracFone Wireless, Inc. ("TracFone"), Virgin Mobile USA, L.P. ("Virgin Mobile"), i-wireless, LLC ("i-wireless"), Head Start Telecom Inc. *et al.* ("Head Start"), and Conexions Wireless, LLC d/b/a Conexion Wireless ("Conexions").<sup>7</sup> The Commission has concluded that the facilities

<sup>&</sup>lt;sup>4</sup> See 47 U.S.C. § 254(b).

<sup>&</sup>lt;sup>5</sup> 47 U.S.C. § 160(a)(3).

<sup>&</sup>lt;sup>6</sup> 47 C.F.R. § 54.401.

<sup>&</sup>lt;sup>7</sup> Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i), CC Docket No. 96-45, Order, 20 FCC Rcd 15095 (2005) ("TracFone Forbearance Order"); Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A); Petition for Designation as an Eligible Telecommunications Carrier in the New York; Petition for Designation as an Eligible Telecommunications Carrier in the

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requirement "impedes greater utilization of Lifeline-supported services provided by a pure wireless reseller," and thus, it granted forbearance from this requirement in all of the those cases to increase the availability of prepaid wireless services for low-income consumers. For these reasons, the Commission's grant of forbearance from Section 214(e)(1)(A) and the rules implementing that section to MCA Wireless will benefit low-income consumers in furtherance of the Commission's goal of universal service.

Commonwealth of Virginia; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of North Carolina; Petition for Limited Designation as an Eligible Telecommunications Carrier in the State of Tennessee, CC Docket No. 96-45, Order, 24 FCC Rcd 3381 (2009) ("Virgin Mobile Forbearance Order"); Federal-State Joint Board on Universal Service; Telecommunications Carriers Eligible for Universal Service Support; i-wireless, LLC Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A), CC Docket No. 96-45, WC Docket No. 2010 WL2584267 (2010)("i-wireless Forbearance Telecommunications Carriers Eligible for Universal Service Support, Federal State Joint Board on Universal Service; Head Start Petition for Forbearance; Consumer Cellular Petition for Forbearance; Midwestern Telecommunications Inc. Petition for Forbearance; Line Up, LLC Petition for Forbearance, WC Docket No. 09-197, CC Docket No. 96-45, Order, FCC 10-134 (rel. July 30, 2010) ("Global Forbearance Order"); and Telecommunications Carriers Eligible for Universal Service Support; Federal-State Joint Board on Universal Service; Conexions Petition for Forbearance, WC Docket No. 09-197, CC Docket No. 96-45, Order, FCC 10-178 (rel. October 1, 2010) (collectively, the "Forbearance Orders").

<sup>&</sup>lt;sup>8</sup> TracFone Forbearance Order, 20 FCC Rcd at 15100.

## BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C. 20554

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In the Matter of	)	WC Docket No. 09-197
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Petition for Forbearance of ReCellular, Inc. (MCA Wireless) Under 47 U.S.C. § 160(c)	) )	
	)	

#### PETITION FOR FORBEARANCE

#### I. INTRODUCTION

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ReCellular, Inc. (operating under the brand name "MCA Wireless"), by its attorneys, pursuant to Section 10 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the "Act"), 9 requests that the Commission forbear from applying the requirement in Section 214(e)(1)(A) of the Act<sup>10</sup> and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules<sup>11</sup> that common carriers designated as eligible telecommunications carriers ("ETC") for purposes of federal universal service support provide services, at least in part, over their own facilities. This petition satisfies the requirements of Section 10(a) and is consistent with recent Commission precedent because MCA Wireless requests forbearance throughout the United States from the requirement under Section 214(e)(1)(A) of the Act and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules for

<sup>&</sup>lt;sup>9</sup> 47 U.S.C. § 160.

<sup>&</sup>lt;sup>10</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>&</sup>lt;sup>11</sup> 47 C.F.R. § 54.201(d)(1), (i).

the purpose of designating MCA Wireless as an ETC solely to provide Lifeline-supported services.

MCA Wireless has not, in a pending proceeding, requested or otherwise taken a position on the relief sought.<sup>12</sup> Granting forbearance would permit MCA Wireless to offer discounted telecommunications services that would benefit low-income consumers.

#### II. BACKGROUND

DYKEMA GOSSETT A PROFESSIONAL LIMITED LIABILITY COMPANY: CAPITOL VIEW 201 TOWNSEND STREET SUITE 900 LANSING, MICHIGAN 48933

## A. ReCellular, Inc. (MCA Wireless) Overview

ReCellular, Inc., operating under the brand name MCA Wireless, provides prepaid wireless telecommunications services to consumers. MCA Wireless uses the Verizon Wireless network ("Verizon") to provide the nationwide wireless backbone for its service, and operates in conjunction with Page Plus Cellular, a Verizon Mobile Virtual Network Operator ("MVNO"). Verizon is a facilities-based carrier that provides wholesale capacity on its wireless network to wireless resellers. Verizon and Page Plus Cellular provide MCA Wireless with network infrastructure and wireless transmission facilities, allowing MCA Wireless to operate like the other wireless resellers that were granted forbearance from the facilities requirement.

MCA Wireless will purchase wireless services from Verizon on a wholesale basis for calling and text messaging, resell the wireless service customers under the MCA Wireless brand, and manage and market all aspects of the wireless services to customers, including service plans, pricing, website, handset selection, mobile applications, marketing materials, and customer service. MCA Wireless, as a division of ReCellular, will provide a feature rich variety of handsets, offering low-income consumers a greater set of features on their handsets.

<sup>&</sup>lt;sup>12</sup> 47 C.F.R. § 1.54(c).

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There are many benefits to MCA Wireless's service, especially for low-income consumers. MCA Wireless will provide simple and affordable prepaid calling plans; a variety of prepaid service plans, including text options; easy to use and feature rich handsets; and customer service. MCA Wireless will not conduct credit checks or require any customer to enter into long-term service contracts as a prerequisite to obtaining service. MCA Wireless's ability to offer a variety of plans, including minute-only options, will provide an opportunity for users to have up to 100 minutes for as little as \$10 per month.

By providing customers with a reliable platform of communication, MCA Wireless will facilitate access to emergency services, contacting prospective employers, staying in contact with family members, and providing reliable communication while traveling to low-end consumers. Previously ignored customers will have expanded availability of wireless services, which is the principal reason for the creation of USF.<sup>13</sup> In fact, the vast majority of MCA customers will be among those that USF was designed to benefit.

## B. Lifeline Program

The FCC and Congress recognize that telephone service provides a vital link to emergency services, government services, and surrounding communities. To help promote telecommunications service nationwide, the FCC, as directed by Congress and with the help of the Universal Service Administrative Company ("USAC"), administers the federal Universal Service Fund. Telecommunications providers must contribute to the fund through an assessment on their interstate and international revenues.

<sup>&</sup>lt;sup>13</sup> 47 U.S.C. § 254.

The goals of Universal Service, as mandated by the Telecommunications Act of 1996, are to:

- Promote the availability of quality services at just, reasonable and affordable rates for all consumers;
- Increase nationwide access to advanced telecommunications services;
- Advance the availability of such services to all consumers, including those in low income, rural, insular and high cost areas at rates that are reasonably comparable to those charged in urban areas;
- Increase access to telecommunications and advanced services in schools, libraries and rural health care facilities; and
- Provide equitable and non-discriminatory contributions from all providers of telecommunications services to the fund supporting universal service programs.<sup>14</sup>

The Commission established four programs to fulfill these goals. They are:

- The High-Cost program;
- The Low Income program;
- The Schools and Libraries program; and
- The Rural Health Care program.

The Low Income program, through Lifeline Assistance, provides discounts on basic monthly telephone service at the primary residences for income-eligible consumers.<sup>15</sup>

Over 1,500 telephone companies in the United States and its territories participate in the federal Low-Income program, which makes basic, local telephone service affordable to more

<sup>&</sup>lt;sup>14</sup> 47 U.S.C. § 254(b).

<sup>&</sup>lt;sup>15</sup> 47 C.F.R. § 54.401.

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than 7 million low-income customers.<sup>16</sup> Many competitive and wireless telephone companies are eligible to provide Lifeline support. To provide Lifeline, carriers must be designated as ETCs by their state commission or the FCC.<sup>17</sup>

#### C. Forbearance Standard

Section 10(a) of the Act provides that the Commission shall forbear from applying any regulation or any provision of the Act to any telecommunications carrier if the Commission determines that:

- (1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;
- (2) enforcement of such regulation or provision is not necessary for the protection of consumers; and
- (3) forbearance from applying such provision or regulation is consistent with the public interest.<sup>18</sup>

Forbearance must be granted when all three prongs of the test are met.<sup>19</sup>

Federal Communications Commission, *Universal Service Program for Low-Income Consumers*, <a href="http://www.fcc.gov/wcb/tapd/universal\_service/lowincome.html">http://www.fcc.gov/wcb/tapd/universal\_service/lowincome.html</a> (last visited Sept. 27, 2010).

<sup>&</sup>lt;sup>17</sup> 47 U.S.C. § 254(e).

<sup>&</sup>lt;sup>18</sup> 47 U.S.C. § 160(a).

<sup>&</sup>lt;sup>19</sup> *Id*.

#### D. Commission Precedent

The Commission has granted several similar requests by wireless resellers seeking forbearance from the facilities requirement for ETC designation in Section 214(e)(1)(A) of the Act. The Commission granted TracFone's request for forbearance from the facilities-based requirement in 2005; Virgin Mobile's in 2009; and i-wireless's, Head Start's, and Conexions's in 2010.<sup>20</sup> Like these companies, MCA Wireless provides nationwide prepaid wireless services. In concluding that each company satisfied the three requirements necessary for a grant of forbearance,<sup>21</sup> the Commission considered the statutory goal of universal service for low-income consumers<sup>22</sup> and the statutory requirements for forbearance in the context of the Lifeline program.<sup>23</sup>

## (1) Just and Reasonable

The Commission concluded in the *Forbearance Orders* that, in the context of Lifeline support, the facilities requirement is not necessary to ensure that the carriers' charges, practices, and classifications are just and reasonable.<sup>24</sup> The Commission distinguished the *Forbearance Orders* from its prior decision in the 1997 *Universal Service First Report and Order*, in which

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<sup>&</sup>lt;sup>20</sup> See Forbearance Orders.

TracFone Forbearance Order, 20 FCC Rcd at 15099–15100; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3388; i-wireless Forbearance Order, 2010 WL 2584267 at \*2; Global Forbearance Order, FCC 10-134, at 6, para. 5.

<sup>&</sup>lt;sup>22</sup> 47 U.S.C. § 254(b)(3).

<sup>&</sup>lt;sup>23</sup> 47 U.S.C. § 214(e).

TracFone Forbearance Order, 20 FCC Rcd at 15100–15101; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3389.

pure wireless resellers were denied ETC designation,<sup>25</sup> and ruled that providing Lifeline support directly to a pure wireless reseller would not result in double recovery.<sup>26</sup>

### (2) Consumer Protection

The Commission also determined in the *Forbearance Orders* that enforcing the facilities requirement for a pure wireless reseller that seeks ETC designation only for Lifeline support is not necessary for the protection of consumers.<sup>27</sup> Instead, the Commission concluded that forbearance from the facilities requirement would benefit consumers because they would offer Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services.<sup>28</sup>

### (3) Public Interest

Finally, the Commission concluded in the *Forbearance Orders* that the public interest is served by forbearing from the facilities requirement.<sup>29</sup> The Commission reasoned that requiring the carriers to own facilities did not necessarily further the statutory goals of the Low Income program, which is to provide support to qualifying low-income consumers throughout the nation, regardless of where they live.<sup>30</sup>

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Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9015, para. 449 (1997) ("Universal Service First Report and Order").

<sup>&</sup>lt;sup>26</sup> *Id.*; *i-wireless Forbearance Order*, 2010 WL 2584267 at \*6; *Global Forbearance Order*, FCC 10-134, at 7, para. 15.

<sup>&</sup>lt;sup>27</sup> TracFone Forbearance Order, 20 FCC Rcd at 15101; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3390; i-wireless Forbearance Order, 2010 WL 2584267 at \*3; Global Forbearance Order, FCC 10-134, at 5–6, para. 10.

<sup>&</sup>lt;sup>28</sup> *Id*.

TracFone Forbearance Order, 20 FCC Rcd at 15104–15105; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3393; i-wireless Forbearance Order, 2010 WL 2584267 at \*5; Global Forbearance Order, FCC 10-134, at 7–8, para. 15.

<sup>&</sup>lt;sup>30</sup> TracFone Forbearance Order, 20 FCC Rcd at 15105; Virgin Mobile Forbearance

#### III. ANALYSIS

A. Enforcement of Section 214(e)(1)(A) Is Not Necessary to Ensure That MCA Wireless's Rates Are Just and Reasonable.

First, the Commission must determine whether enforcement of the facilities-based requirement of Section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is necessary to ensure that the "charges, practices, classifications, or regulations are just and reasonable and not unjustly or unreasonably discriminatory." In the *Forbearance Orders*, the Commission concluded that wireless resellers are by definition subject to competition, and this competition ensures that its rates are just and reasonable and not unjustly or unreasonably discriminatory. Further, the Commission concluded that this competition spurs innovation among carriers in their Lifeline offerings, expanding the choice of Lifeline products for eligible consumers.<sup>33</sup>

Like the other wireless resellers that have been granted forbearance from the facilities requirement, MCA Wireless will compete, at a minimum, with the Lifeline offerings of the incumbent wireline carriers throughout the United States. As a new entrant in the market, MCA Wireless is attempting to gain market share by offering competitive rates and superior customer service with no long-term contracts, penalties for termination at any time, usage charges, or credit checks as a prerequisite to service. It will offer a variety of plans, including minute-only options, giving users an opportunity to purchase up to 100 minutes for as little as \$10 per month.

Order, 24 FCC Rcd at 3393; i-wireless Forbearance Order, 2010 WL 2584267 at \*5; Global Forbearance Order, FCC 10-134, at 7-8, para. 15.

<sup>&</sup>lt;sup>31</sup> 47 U.S.C. § 160(a)(1); 47 U.S.C. § 214(e).

TracFone Forbearance Order, 20 FCC Rcd at 15101; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3389; i-wireless Forbearance Order, 2010 WL 2584267 at \*3; Forbearance Order, FCC 10-134, at 5, para. 9.

<sup>&</sup>lt;sup>33</sup> *Id*.

This competition will not only keep MCA Wireless's rates down, but also will drive all of the Lifeline providers' rates down for the benefit of consumers. Thus, in accordance with the *Forbearance Orders*, the Commission should find that enforcement of Section 214(e)(1)(A) is not necessary to ensure that MCA Wireless's charges, practices, and classifications are just and reasonable.

## B. Enforcement of Section 214(e)(l)(A) Is Not Necessary to Protect Consumers.

Second, the Commission must determine whether enforcement of the facilities-based requirement of Section 214(e) for a pure wireless reseller that seeks ETC designation only for Lifeline support is necessary for the protection of consumers.<sup>34</sup> MCA Wireless's request for forbearance must be examined in light of the statutory goal of providing low-income consumers with access to telecommunications services.<sup>35</sup> As the Commission found in the *Forbearance Orders*, granting forbearance to allow participation in the Low Income program would benefit consumers by offering Lifeline-eligible consumers an additional choice of providers for accessing telecommunications services.<sup>36</sup> The *Forbearance Orders* further stated that the prepaid feature may be an attractive alternative for such consumers who need the mobility, security, and convenience of a wireless phone but who are concerned about usage charges or long-term contracts.<sup>37</sup> Thus, if MCA Wireless is granted forbearance, low-income consumers would benefit because MCA Wireless would offer an additional choice of providers for accessing telecommunications services not available to such consumers today.

<sup>&</sup>lt;sup>34</sup> 47 U.S.C. § 160(a)(2).

<sup>&</sup>lt;sup>35</sup> 47 U.S.C. § 254.

<sup>&</sup>lt;sup>36</sup> TracFone Forbearance Order, 20 FCC Rcd at 15101; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3390; *i-wireless Forbearance Order*, 2010 WL 2584267 at \*3; Global Forbearance Order, FCC 10-134, at 5–6, para. 10.

<sup>&</sup>lt;sup>37</sup> *Id*.

MCA Wireless's request also will not unduly burden the USF or otherwise reduce the amount of funding available to other ETCs. In the *TracFone* and *Virgin Mobile Forbearance Orders*, the Commission ruled that granting forbearance for Lifeline-only services would not "significantly burden the universal service fund and thus negatively affect consumers through increased pass-through charges of the carriers' contribution obligations." Further, the Commission concluded that "any increase in the size of the fund would be minimal and is outweighed by the benefit of increasing eligible participation in the Lifeline program, furthering the statutory goal of providing access to low-income consumers."

And in the *i-wireless* and *Global Forbearance Orders*, the Commission found that granting forbearance will not have any effect on the number of persons eligible for Lifeline support. The Commission emphasized that the additional choice and service options of another wireless reseller offering a service for low-income consumers represents a significant benefit to consumers because a new entrant would incentivize existing wireless reseller ETCs to offer better services and terms to their customers. Likewise, the Commission should find that granting forbearance to MCA Wireless will not increase USF's costs or expenditures in any meaningful way. Instead, many low-income customers who do not currently participate in the Lifeline programs will benefit.

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<sup>&</sup>lt;sup>38</sup> TracFone Forbearance Order, 20 FCC Rcd at 15103; Virgin Mobile Forbearance Order, 24 FCC Rcd at 3391.

<sup>&</sup>lt;sup>39</sup> Virgin Mobile Forbearance Order, 24 FCC Rcd at 3392.

<sup>&</sup>lt;sup>40</sup> i-wireless Forbearance Order, 2010 WL 2584267 at \*6; Global Forbearance Order, FCC 10-134, at 9, para. 19.

<sup>&</sup>lt;sup>41</sup> *Id*.

## C. Forbearance Is in the Public Interest.

Third, the Commission must determine whether enforcement of the facilities-based requirement of Section 214(e) for a pure wireless reseller that seeks ETC designation for Lifeline support only is in the public interest.<sup>42</sup> The Commission stated in the *Forbearance Orders* that the Lifeline program is designed to reduce the monthly cost of telecommunications service for qualifying low-income consumers. Lifeline support is directly reflected in the price that the low-income consumer pays.<sup>43</sup> Therefore, the Commission concluded that enforcing the facilities requirement does not necessarily further the statutory goal of the Low Income Program, which is to provide support to qualifying low-income consumers throughout the nation, regardless of where they live.

The Universal Service Administrative Company currently states that participation in the Lifeline program is low.<sup>44</sup> According to the most recent data issued by USAC in 2009, only five (5) states had more than 50 percent of eligible low-income households subscribe to the program.<sup>45</sup> The Commission has also stated that "even more can be done to further expand participation by those subscribers that qualify and thus further the statutory goals of section 254(b)."<sup>46</sup> MCA Wireless provides low-income consumers with prepaid wireless services that are affordable, easy to use, reliable, and they give the consumer security without requiring long-

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<sup>&</sup>lt;sup>42</sup> 47 U.S.C. § 160(a)(3).

<sup>&</sup>lt;sup>43</sup> 47 C.F.R. §§ 54.101, 54.504.

<sup>&</sup>lt;sup>44</sup> Universal Service Administrative Company, *Low Income Program Information Packet*, *available at* <a href="http://www.universalservice.org/">http://www.universalservice.org/</a> res/documents/li/pdf/LI%20Web%20Packet.pdf.

Universal Service Administrative Company, *Lifeline Program Participation Data*, available at http://www.usac.org/ res/documents/li/pdf/li-participation-rate-map-2009.pdf.

<sup>&</sup>lt;sup>46</sup> Virgin Mobile Forbearance Order, 24 FCC Rcd at 3393.

term contracts and high usage charges. Therefore, granting MCA Wireless forbearance from the Section 214(e)(l)(A) facilities requirement will further the Commission's goal of increasing participation in the Lifeline program. This will also foster competition among providers of telecommunications services, which will lead to lower prices and increased choices for low-income consumers.

Finally, MCA Wireless will comply with all the conditions imposed upon other wireless resellers. Specifically, MCA Wireless will:

Provide its Lifeline customers with 911 and enhanced 911 (E911) access regardless of activation status and availability of prepaid minutes;

Provide its Lifeline customers with E911-compliant handsets and replace, at no additional charge to the customer, non-compliant handsets of existing customers who obtain Lifeline-supported service;

Comply with the above conditions as of the date it provides Lifeline service;

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Obtain a certification from each Public Safety Answering Point (PSAP) where ReCellular seeks to provide Lifeline service confirming that ReCellular provides its customers with 911 and E911 access, or self-certifying that it does so if certain conditions are met;

Require each customer self-certify at the time of service activation and annually thereafter that he or she is the head of household and receives Lifeline-supported service only from ReCellular;

Establish safeguards to prevent its customers from receiving multiple Lifeline subsidies from ReCellular at the same address;

Deal directly with the customer to certify and verify the customer's Lifeline eligibility; and

Submit to the Wireline Competition Bureau a compliance plan outlining the measures ReCellular will take to implement these obligations within 30 days of the effective date of the order.<sup>47</sup>

## IV. CONCLUSION

VIEW 201 TOWNSEND STREET SUITE 900/LANSING, MICHIGAN 4893.

MCA Wireless satisfies the requirements of Section 10(a) and is consistent with recent Commission precedent because MCA Wireless is seeking forbearance from the requirements of Section 214(e)(1)(A) of the Act and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules for the sole purpose of participating in USF's Lifeline program. Receiving forbearance from the facilities requirement will enable MCA Wireless to offer discounted telecommunications services to low-income consumers.

WHEREFORE, for all of the foregoing reasons, MCA Wireless respectfully requests that the Commission forbear from applying Section 214(e)(1)(A) of the Act and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules throughout the United States for the purpose of designating MCA Wireless as an ETC solely to provide Lifeline-supported services.

<sup>&</sup>lt;sup>47</sup> Global Forbearance Order, FCC 10-134, at 6–8, para. 11, 13, 16.

■ DYKEMA GOSSETT A PROFESSIONAL LIMITED LIABILITY COMPANY. CAPITOL VIEW 201 TOWNSEND STREET SUITE 900-LANSING, MICHIGAN 48933

Date: October 13, 2010

Respectfully submitted,

DYKEMA GOSSETT PLLC Attorneys for ReCellular, Inc.

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### APPENDIX A

## SCOPE OF RELIEF REQUESTED

ReCellular, Inc. (operating under the brand name "MCA Wireless"), a wireless resale provider, is seeking forbearance from the requirement under Section 214(e)(1)(A) of the Communications Act of 1934, as amended (the "Act"), and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules that carriers designated as eligible telecommunications carriers ("ETC") for the purposes of federal universal service support provide services, at least in part, over their own facilities. MCA Wireless requests forbearance throughout the United States from the requirement under Section 214(e)(1)(A) of the Act and Sections 54.201(d)(1) and 54.201(i) of the Commission's rules for the purpose of designating MCA Wireless as an ETC solely to provide Lifeline-supported services.

All supporting data upon which MCA Wireless intends to rely is included in the preceding pages. MCA Wireless is not relying on any separate market analysis. Therefore, MCA Wireless is not attaching a separate appendix with supporting data.

DYKEMA GOSSETT A PROFESSIONAL LIMITED LIABILITY COMPANY CAPITOL VIEW 201 TOWN

# APPENDIX B

## CERTIFICATION

I certify that I am an officer of ReCellular, Inc., that I have examined this Petition for Forbearance, and to the best of my knowledge, information and belief, all statements of fact contained in this Petition are true.

Name: Eric F. Forster Title: Vice President

Date: 10-12-10